

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MONSANTO COMPANY and )  
MONSANTO TECHNOLOGY LLC, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
E.I. DUPONT DE NEMOURS AND )  
COMPANY and PIONEER HI-BRED )  
INTERNATIONAL, INC., )  
 )  
Defendants. )

Case No. 4:09-CV-00686-ERW

**MOTION TO UNSEAL MEMORANDUM AND ORDER**

Defendants/Counterclaim Plaintiffs E.I. du Pont de Nemours and Co. and Pioneer Hi-Bred International, Inc. (“DuPont & Pioneer”) request that the Court unseal the Memorandum and Order entered by the Court on July 30, 2010 (the “July 30, 2010 Order”) (Dkt. # 283).

DuPont & Pioneer respectfully suggest that the July 30, 2010 Order does not contain any “Confidential” information, as that term is defined in the Protective Order entered by the Court on June 28, 2010 (Dkt. # 238). Any information in the July 30, 2010 Order that is even arguably confidential is already available to the public through the Court’s January 15, 2010 Memorandum and Order (the “January 15, 2010 Order”) (Dkt. # 124), which the July 30, 2010 Order vacates in part, or through the transcripts from the October 23, 2009 hearing (Dkt. # 103) and the June 21, 2010 hearing (Dkt. # 240). For example, the contractual language discussed at page 3 of the July 30, 2010 Order was previously quoted on page 4 of the publicly-available January 15, 2010 Memorandum and Order.

On July 30, 2010, DuPont & Pioneer asked Monsanto to advise whether it opposes the unsealing of the July 30, 2010 Order, but Monsanto has not yet provided a substantive response

to this inquiry. DuPont & Pioneer request a short telephone conference with the Court to discuss, and hopefully resolve, this issue at the Court's earliest convenience. The instant motion is time-sensitive because, among other things, the July 30, 2010 Order clarifies and defines the permissible scope of discovery regarding DuPont & Pioneer's "switching strategy" allegations. DuPont & Pioneer need to show the July 30, 2010 Order to third parties who have received subpoenas seeking documents related to those "switching strategy" allegations, some of whom have objected to producing responsive documents while the motion to clarify remained unresolved.

Dated: August 3, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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